

**FORM TO BE USED BY FEDERAL PRISONERS FOR FILING A PETITION FOR WRIT OF
HABEAS CORPUS UNDER TITLE 28 U.S.C. § 2241**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ADRIAN WILLIAMS

Petitioner

Fed. Reg. No. 43230-053

F.M.C. Devens, P.O. Box 879

Ayer, MA 01432

(Full name under which you were convicted;
Prison Number; Full Mailing Address).

05-40100 RWZ

CIVIL ACTION NO. _____

VS.

DAVID L. WINN, WARDEN, F.M.C. Devens

Respondent(s)

(Name of Warden or other authorized person
having custody of Petitioner).

**PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT
OUT. ANSWER THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.**

1. This petition concerns: (check appropriate blank)

A conviction

A sentence (**CAUTION:** If you are attacking a sentence imposed under a Federal Judgment, you
must file a direct motion under 28 U.S.C. § 2255 in the Federal Court which entered the
Judgment).

Jail or prison conditions

Prison discipline issue

A parole problem

Other. State briefly: _____

2. Place of detention: Federal Medical Center Devens, Unit J-B

Post Office Box 879

Ayer, Massachusetts 01432

HAVE YOU FILED PREVIOUS PETITIONS FOR HABEAS CORPUS MOTION UNDER TITLE 28 U.S.C. § 2255, OR ANY APPLICATIONS, PETITIONS OR MOTIONS WITH RESPECT TO THIS CONVICTION?

Yes _____ No _____

3. If your answer is "yes," give the following information:

a. Name of the Court: United States District Court for the Eastern District of New York

b. Nature of proceeding: Petition under 28 U.S.C. §2255 to Vacate, Set-Aside or Correct Sentence by a person in Federal Custody

c. Grounds raised: Petitioner's conviction should be overturned due to failure to indict within the applicable statute of limitations; due to "constructive amendment" of the indictment prior to its submission to the jury; and due to ineffective assistance of counsel received prior to and during trial and on appeal

d. Result: Dismissed

e. Date of result: November 29, 2000

f. Citation or number of any written opinion or order entered pursuant to each such disposition: _____

4. If you did not file a motion under section 2255 of Title 28 U.S.C., or if you filed a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention: Pursuant to the AEDPA rules concerning section 2255 petitions, the Petitioner may not file a successive section 2255 petition and the Constitution of the United States state that habeas corpus may not be suspended and the Petitioner only recently discovered these errors.

5. Does counsel presently represent you? _____ Yes No _____

If so, Name address and phone number of counsel: N/A

6. Name and location of court, which imposed sentence: United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

7. Indictment or case number, if known: 97-CR-609

8. Offense or Offenses for which sentence was imposed: Count 1: Interfering with Interstate Commerce by Robbery, in violation of 18 USC §1951 & Count 2: Using and Carrying a Firearm During a Crime of Violence, in violation of 18 USC §924(c)

9. Date upon which sentence was imposed and the term of the sentence: February 11, 1998
123 months of imprisonment and 5 years of supervised release

10. When was a finding of guilt made? (Check one)

After a plea of guilty

After a plea of not guilty

After a plea of Nolo Contendre

11. If you were found guilty after a plea of not guilty, was that finding made by:

A jury

A judge without a jury

12. Did you appeal the judgment of the conviction or the imposition of a sentence? Yes No

13. If you did appeal, give the following information for each appeal:

a. Name of court: United States Court of Appeals for the Second Circuit

b. Result: Affirmed

c. Date of result: March 26, 1999

d. Citation or number of opinion: 175 F.3d 1099

e. Grounds raised: (List each one)

See Page 3(b)

NOTE: If you appealed more than once, attach an additional sheet of paper the same size, give all the information requested above in question number 13, a through e. DO NOT WRITE ON BACK OF PAGE.

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13(e) continued

1. Whether indictment beyond the 30-day time period established by 18 U.S.C. § 3161(b) mandated dismissal of the case where the government delayed indictment without obtaining a continuance from the court, the period of delay occurred without court participation or approval, and Petitioner neither entered into a written agreement with the government, waived his Speedy Trial rights on the record, nor consented to a discrete period of time during which the proceedings could be delayed.
2. Whether the Speedy Trial clock commenced upon indictment, where Appellant was indicted after he appeared before a Magistrate of the court in which the charge was pending.
3. Whether it was error to exclude a 37-day period of unexplained delay which was ordered by the District Court after it initially set Appellant's trial date beyond the 20-day limit of the Speedy Trial Act.
4. Whether it was error to exclude delay which occurred because the Trial Judge was engaged in another trial.
5. Whether, in the event of an affirmative answer to the previous questions, trial counsel was ineffective for failing to move for dismissal of the indictment on Speedy Trial Act grounds, and Appellant's counsel was ineffective for failing to challenge the trial counsel's disregard of the Speedy Trial Act violations.

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13(e) continued

6. Whether Petitioner was denied an effective appeal where Appellant's counsel failed to challenge trial counsel's failure to object to the Court's multiple constructive amendments of the indictment, and the consequent lowering of the government's burden of proof.

14. Summarize briefly the facts supporting each ground. If necessary attach a single page behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground one: The Probation Officer, the District Court, the Government, and Petitioner's counsel erred by using Count 3 (count in which Petitioner was found not guilty) to enhance Petitioner's sentence without advanced notice.

Supporting Facts: (Tell your story BRIEFLY without citing cases or law. You are CAUTIONED that you must state facts not conclusions, in support of your grounds. E.g., who did exactly what to violate your rights at what time or place).

See Memorandum of Law

b. Ground Two: The Probation Officer, The District Court, the Government, and Petitioner's counsel erred by enhancing Petitioner's offense by four (4) levels for abducting the driver of the vehicle with a firearm.

Supporting Facts: See Memorandum of Law

Ground Three:

Supporting Facts:

15. If this petition concerns jail or prison conditions, prison discipline, a parole problem or other cause under 28 U.S.C. § 2241, answer the following:

a. Did you present the facts in relation to your present complaint in the internal prison grievance procedure?

Yes No

(1) If your answer to "a" above is yes, what was the result? N/A

(2) If your answer to "a" above is no, explain: _____ N/A

b. Did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

Yes No

(1) If your answer is "yes," state the date such claim was submitted and what action, if any has been taken:
N/A

(2) If your claim has not been acted on, attach copies of any correspondence you have received from the Bureau of Prisons or other federal agency concerning you.

c. **STATEMENT OF CLAIM:** State here as briefly as possible the facts of your case. DO NOT give any legal arguments or cite any cases or any statutes. Attach extra pages of the same size to this page if more room is necessary. DO NOT write on the reverse side of this page.

N/A

16. RELIEF: state briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

To vacate and correct sentence.

Signed on this the 17 day of June, 2005.

Rebecca Williams
Signature of petitioner

Signature of petitioner

I DECLARE (OR CERTIFY, VERIFY OR STATE) THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE OR INFORMATION AND BELIEF AND THAT ANY FALSE STATEMENTS MADE THEREIN ARE MADE SUBJECT TO THE PENALTIES OF APPLICABLE LAWS RELATING TO UNSWORN FALSIFICATIONS TO AUTHORITIES.

Executed on: June 17, 2005.

Alexander Williams
Signature of petitioner

Signature of petitioner